

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Section 630
Title 14, California Code of Regulations
Re: Designation and Special Area Regulations

I. Date of Initial Statement of Reasons: July 3, 2002

II. Dates and Locations of Scheduled Hearings:

(a) Notice Hearing:	Date:	August 1, 2002
	Location:	San Luis Obispo

(c) Adoption Hearing:	Date:	October 24, 2002
	Location:	Crescent City

III. Description of Regulatory Action:

(a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

Section 1580 of the Fish and Game Code provides for the acquisition, designation, and management of property to protect threatened and endangered plants, animals, and specialized habitat types as Ecological Reserves. Section 630, Title 14, CCR, currently lists 119 habitat areas as State ecological reserves with general rules and regulations for designated ecological reserves as well as special area regulations. These regulations protect resource values while permitting compatible public use of the areas.

The Department of Fish and Game proposes amending this section to add three areas to the list of designated ecological reserves; provide special area regulations for the new reserves to allow or limit specific activities; and amend special regulations for nine (9) existing reserves to allow or limit specific activities.

The Department proposes designating the following properties as ecological reserves:

1. Leek Springs, 160 acres, ElDorado County
2. Burton Mesa, 5,125 acres, Santa Barbara County
3. Agua Hedionda Lagoon, 186 acres, San Diego County

The Department proposes to amend one or more special area regulations for the existing Macklin Creek, Carrizo Plains, Morro Dunes, Blue Sky, Rancho Jamul, Upper Newport Bay, Carrizo Canyon, Magnesia Spring, and Santa Rosa Plateau ecological reserves to provide additional protection for listed species, to allow additional public uses, reduce public use impacts, and to provide for better local communication and regulatory supervision of the sites.

Designation of the proposed three ecological reserves will provide necessary regulatory protection for the wildlife resources for which these properties were acquired. By designation in Section 630, Title 14, CCR, all general regulations will apply to their management and use by the public, thus providing the maximum assurance that the resource values are maintained in perpetuity. Since these properties contain numerous state and federally-listed species, sensitive vegetation communities, and may act as linkages for other important protected lands, it is necessary and appropriate to provide this level of regulatory protection to prevent improper use and degradation of wildlife resources.

The following designations are proposed:

1. Leek Springs, 160 acres, El Dorado County as an ecological reserve to protect montane wet meadow and red fir forest habitats for the spotted owl, northern goshawk, willow flycatcher, great gray owl, martin, wolverine, Sierra Nevada red fox and downstream fisheries.

The addition of five special regulations for Leek Springs Ecological Reserve will allow entry by permission only, prohibit fishing, pets, horses and bicycles to protect the sensitive wet meadow habitat while allowing for restricted public use. Vehicles will be prohibited, except for use by adjacent landowners, U.S. Forest Service personnel, fire personnel, or authorized persons who may only use the road easement which bisects the property.

2. Burton Mesa, 5,125 acres, Santa Barbara County as an ecological reserve to protect one of the last significant stands of Burton Mesa Chaparral, a rare natural community.

The addition of two special regulations for Burton Mesa will restrict motor vehicle use to department authorized and public safety purposes to protect the rare chaparral community and allow upland game hunting in areas and at times specified by the Department. Since hunting is not normally permitted on ecological reserves, the special regulations are necessary when the Department determines that this public use is appropriate and will cause no impacts to protected species and habitat.

3. Agua Hedionda Lagoon, 186 acres, San Diego County as an ecological reserve to protect southern willow riparian forest and salt marsh for the light-

footed clapper rail, least Bell's vireo, Belding's savannah sparrow, coastal California gnatcatcher and willow flycatcher.

The addition of two special regulations will allow for cooperative management of the reserve for fish and wildlife, and public safety, and prohibit fishing to protect vegetation and species.

Amendment of special area regulations for existing reserves will identify new and existing units of Carrizo Plains, Morro Dunes, and Rancho Jamul ecological reserves to assist in carrying out management and public use activities, and additionally for Rancho Jamul, to allow activities associated with planned educational, conference, training and regional land management activities. An additional amendment for Carrizo Plains will allow nighttime biological surveys and associated activities. Amendments to special regulations at Macklin Creek Ecological Reserve will prohibit fishing, hunting and public access to protect the federally threatened Lahontan cutthroat trout, while two special regulations at Upper Newport Bay Ecological Reserve will limit fishing and boating to designated areas to protect vegetation and sensitive species. Special regulations will prohibit pets from entering Carrizo Canyon and Magnesia Spring ecological reserves unless they remain inside a motor vehicle for the protection of peninsular bighorn sheep. The addition of a special regulation for Blue Sky Ecological Reserve will prohibit bicycles for the protection of vegetation and species. A special regulation limiting equestrian use to docent led tours at Santa Rosa Plateau Ecological Reserve will be deleted to allow improved access to equestrian trails.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 1580, 1581, 1583 and 1907, Fish and Game Code.

Reference: Sections 1526, 1528, 1530, and 1580-1585, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None

- (d) Identification of Reports or Documents Supporting Regulation Change:

See attached Management Plan Summaries for the proposed new additions. Also see the 1995 report, "Blue Sky Ecological Reserve User Observation Study During Bicycle Trial Period" for information on the impacts of bicycle use at the reserve.

(e) Public Discussions of Proposed Regulations Prior to Notice publication:

No public meetings are being held prior to the notice publication. The 45 day comment period provides adequate time for review of the proposed amendments.

IV. Description of Reasonable Alternatives to Regulatory Action:

(a) Alternatives to Regulation Change:

Designation as a wildlife area in Section 550, Title 14, CCR. This alternative is inappropriate because of the purposes for which these property were acquired. The sensitive habitat and species require additional protection not provided under Section 550.

(b) No Change Alternative:

By not adding these properties and providing special regulations, the appropriate level of protection for the properties is not provided. Also, appropriate public use activities will not be enforceable unless the amendments are made.

(c) Consideration of Alternatives:

In view of information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed or would be as effective and less burdensome to the affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment; therefore, no mitigation measures are needed.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

(a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse

economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The proposed regulatory action adds three ecological reserves to Title 14 and special regulations for nine existing reserves in order to provide maximum protection of wildlife and habitat and to manage appropriate public use. It is not expected to negatively affect businesses, because the regulations are enforced only on the specific state properties named.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

- (h) Effect on Housing Costs:

None.

Informative Digest/Policy Statement Overview

Currently, there are 119 ecological reserves designated in Section 630, Title 14, CCR for the purpose of protecting sensitive habitats and species. The Department is requesting that this section be amended to add three new ecological reserves to this listing. The three new reserves are:

Leek Springs consisting of 160 acres in El Dorado County for the protection of wet meadow and red fir forest for the spotted owl, northern goshawk, willow flycatcher, great gray owl, marten, wolverine, Sierra Nevada red fox and downstream fisheries.

Burton Mesa, 5125 acres, Santa Barbara County as an ecological reserve to protect one of the last significant stands of Burton Mesa Chaparral, a rare natural community.

Agua Hedionda Lagoon, 186 acres, San Diego County as an ecological reserve to protect southern willow riparian forest and salt marsh for the light-footed clapper rail, least Bell's vireo, Belding's savannah sparrow, coastal California gnatcatcher and willow flycatcher.

The reasons for listing these properties in Title 14 are to regulate public use and provide the best available protection for the species and habitats the properties were acquired to protect. Since the properties contain sensitive species and important vegetation communities, and act as linkages for other important protected lands, it is necessary and appropriate to provide this level of regulatory protection to prevent improper use and degradation of wildlife resources. In order to do this efficiently, the Department has a set of general regulations which apply to all ecological reserves.

The Department may write special regulations for individual properties, as it thinks appropriate, to give an additional level of protection, or to permit specific public uses not governed by the general regulations. The Department is requesting special regulations for these reserves based on management information gathered which shows these amendments are necessary to protect the habitat or species within the properties.

Special regulations for Leek Springs Ecological Reserve will allow entry by permission of the regional manager only and prohibit fishing, pets, horses and bicycles in order to protect sensitive habitat and species. Vehicles will be prohibited, except for use by adjacent landowners and authorized personnel who may only use a road easement which bisects the property.

Special regulations for Burton Mesa Ecological Reserve will restrict motor vehicle use to management and public safety purposes to protect the rare chaparral community and allow upland game hunting in areas and at times specified by the Department. Since hunting is not normally permitted on ecological reserves, the special regulation is necessary when the Department determines that this kind of public use is appropriate and will cause no impacts to protected species and habitat.

Special regulations for Agua Hedionda Lagoon Ecological Reserve will prohibit fishing to protect vegetation and species, and allow for cooperative management of the reserve for fish and wildlife, and public safety with the County of San Diego.

For existing reserves, the Department wishes to amend special area regulations for Macklin Creek, Carrizo Plains, Morro Dunes, Blue Sky, Rancho Jamul, Upper Newport Bay, Carrizo Canyon, Magnesia Spring and Santa Rosa Plateau ecological reserves. Amendment of special area regulations for Carrizo Plains, Morro Dunes, and Rancho Jamul ecological reserves will identify new and existing units of the reserves to assist in carrying out management and public use activities, and additionally for Rancho Jamul, to allow activities associated with planned educational, conference, training and regional land management activities. An additional amendment for Carrizo Plains will allow nighttime biological surveys and associated activities.

Special regulations at Macklin Creek Ecological Reserve will prohibit fishing, hunting and public access to protect the federally threatened Lahontan cutthroat trout, while two special regulations at Upper Newport Bay Ecological Reserve will limit fishing and boating to certain areas to protect vegetation and sensitive species.

Special regulations will prohibit pets from entering Carrizo Canyon and Magnesia Spring ecological reserves unless they remain inside a motor vehicle for the protection of peninsular bighorn sheep. The addition of a special regulation for Blue Sky Ecological Reserve will prohibit bicycles to protect vegetation and species. A special regulation limiting equestrian use to docent led tours at Santa Rosa Plateau Ecological Reserve will be deleted to allow improved access to equestrian trails.